

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PAUL L. YACYK., )

Plaintiff, )

vs. )

CIA, )

Defendant. )

Case No.: 2:23-cv-00848-GMN-BNW

**ORDER**

Pending before the Court are two Motions for Default Judgment, (ECF Nos. 12, 13), filed by Plaintiff Paul L. Yacyk (“Plaintiff”).<sup>1</sup> For the reasons discussed below, the Court DENIES Plaintiff’s Motions.

**I. BACKGROUND**

Plaintiff alleges that the CIA is stalking and abusing him with microwaves and ultrasonics. (*See generally* Compl., ECF No. 1). Because the instant motions concern service of process, the Court summarizes the docket entries relating to service below.

The summons as to the CIA, U.S. Attorney, and U.S. Attorney General issued on June 7, 2023. (ECF No. 4). On July 14, 2023, the summons was returned unexecuted. (ECF No. 7). The unexecuted summons, signed by a U.S. Marshal or Deputy, noted that the summons contained an inaccurate address for the entity to be served. (*Id.* at 1). On August 7, 2023, Plaintiff filed a Certificate of Service for the Complaint, specifying that the summons was sent by certified mail with return receipt via USPS and “received at the front desk of there.” (ECF No. 8). The summons attached to this Certificate, however, was not signed by the Clerk of Court. (*Id.*). Plaintiff filed another Certificate of Service with a photocopy of the envelope a

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<sup>1</sup> Also pending before the Court is Plaintiff’s Motion for a Temporary Restraining Order (“TRO”), (ECF No. 9). Because Defendant has not been served with the Motion for TRO or the complaint, the Court will defer ruling on this motion.

1 week later. (ECF No. 10). Both Certificates include the same USPS tracking number.

2 Plaintiff filed a Certificate of Service for his pending Motion for TRO as well. (ECF No.  
3 11). Like the other two Certificates, the attached summons is unsigned by the Clerk of Court  
4 and states that the Motion was sent via certified mail.<sup>2</sup> (*Id.*). Plaintiff now seeks entry of  
5 default judgment against Defendant.

## 6 **II. LEGAL STANDARD**

7 Obtaining default judgment is a two-step process governed by Rule 55 of the Federal  
8 Rules of Civil Procedure (“FRCP”). *See Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986).  
9 First, the moving party must seek an entry of default from the clerk of court. Fed. R. Civ. P.  
10 Rule 55(a). Entry of default is only appropriate when a party “has failed to plead or otherwise  
11 defend.” *Id.* Additionally, the FRCP 55(a) advisory note indicates that it is inappropriate to  
12 enter a default against a party who has indicated their intent to defend. *Id.* Then, after the clerk  
13 enters the default, a party must then separately seek entry of default judgment from the court in  
14 accordance with Rule 55(b). Upon entry of a clerk’s default, the court takes the factual  
15 allegations in the complaint as true.

16 The clerk cannot enter default unless the party allegedly defaulting has been served. A  
17 summons must first “issue” from the clerk, which means when a plaintiff presents a properly  
18 completed summons to the clerk, the clerk must sign, seal, and issue it to the plaintiff for  
19 service on the defendant. Fed. R. Civ. P. 4(b). Then, the summons must be timely served with  
20 a copy of the complaint. *Id.* 4(c)(1). To serve a United States agency such as the CIA, “a party  
21 must serve the United States and also send a copy of the summons and of the complaint by  
22 registered or certified mail to the agency.” *Id.* 4(i)(2).

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<sup>2</sup> The Certificate specifically notes that the “Request for a Temporary TRO was sent via Certified Letter to the defendant and received on 8/14/2023.”

1 **III. DISCUSSION**

2 Plaintiff has not met the first step of the default judgment process; he filed Motions for  
3 Default Judgment without first obtaining an entry of default from the clerk of court. The Court  
4 DENIES Plaintiff's Motions for Default Judgment on this ground. The Court notes, however,  
5 that Plaintiff appears to believe that he has sufficiently served Defendant. Accordingly, the  
6 Court takes this opportunity to clarify that Plaintiff has not properly executed service.

7 Because Plaintiff is suing the CIA, an agency of the United States, Plaintiff must serve  
8 the CIA in accordance with Rule 4(i) of the Federal Rules of Civil Procedure. That is, Plaintiff  
9 must serve the United States *and* send a copy of the summons and complaint by registered or  
10 certified mail to the agency. Plaintiff has not completed either step here.

11 First, nothing on the record indicates that Plaintiff served or attempted to serve the  
12 United States. To serve the United States, a party must deliver the summons and complaint to  
13 the U.S. attorney for the district where the action is brought, to an assistant United States  
14 attorney or clerical employee whom the United States attorney designates in a writing filed  
15 with the court clerk, or to the civil-process clerk at the United States attorney's office. Fed. R.  
16 Civ. P. 4(i)(A)(i-ii).

17 Second, to the extent Plaintiff attempted to send a copy of the summons and complaint  
18 by registered or certified mail to the agency, the Certificates of Service reflect that Plaintiff sent  
19 the summons without the clerk's signature. (*See* ECF Nos. 8, 10, 11). Plaintiff must send the  
20 summons issued by the clerk's office along with the Complaint. Plaintiff's service of the  
21 Motion for TRO is similarly insufficient. In light of Plaintiff's *pro se* status, the Court will  
22 grant Plaintiff an additional sixty days to serve Defendant by serving the United States and  
23 sending a copy of the signed summons and complaint to the CIA, consistent with Rule 4(i).  
24 Plaintiff will also have an additional sixty days to serve the Motion for TRO on Defendant.

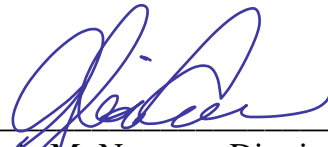
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1 **IV. CONCLUSION**

2 **IT IS HEREBY ORDERED** that Plaintiff's Motions for Default Judgment, (ECF Nos.  
3 12, 13), are **DENIED**.

4 **IT IS FURTHER ORDERED** that Plaintiff shall have sixty (60) days from the date of  
5 this Order to serve the Complaint and Motion for TRO on Defendant.

6 Dated this 12 day of October, 2023.

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Gloria M. Navarro, District Judge  
United States District Court